



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

**1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733**

MAR 09 2012

RETURN RECEIPT REQUESTED

CERTIFIED MAIL 7011 0110 0001 3590 2935

**Mr. Richard F. Bergner
Attorney At Law
Registered Agent for National Oil Recovery Corporation
5151 San Felipe, Suite 1950
Houston, Texas 77056-3907**

**Re: Final Request for Replenishment of Special Account #2
Administrative Order on Consent for Remedial Investigation and Feasibility Study
CERCLA Docket No. 06-05-04
Falcon Refinery Site, Ingleside, San Patricio County, Texas**

Dear Mr. Bergner:

The purpose of this letter is to provide National Oil Recovery Corporation (NORCO) with the U.S. Environmental Protection Agency's (EPA's) final request for replenishment of Special Account #2 according to the Administrative Order on Consent (AOC) for Remedial Investigation and Feasibility Study in the matter of the Falcon Refinery Site, San Patricio County, Texas, National Oil Recovery Corporation (NORCO) Respondent, CERCLA Docket No. 06-05-04 (RI/FS Order).

In the letter from the EPA dated December 16, 2011, you were informed that the EPA determined it necessary to take over performance of the remaining work required under the RI/FS Order in accordance with the work takeover provisions of Section XXIV, Paragraph 88 and Section XXVII, Paragraph 102 of the RI/FS Order. The EPA's initial Work Takeover determination was specified in earlier correspondence from the EPA dated March 28, 2010. Enclosure A (SCORPIOS Report – September 1, 2003, through December 16, 2011) details the EPA's response costs of \$739,965.81 from September 1, 2003, the date following August 31, 2003, the last date of the period for Past Response Costs as defined in the Administrative Order on Consent (AOC) for Removal Action 06-04-04, through December 16, 2011, the effective date of the EPA's Work Takeover.

Paragraph 85 of the RI/FS Order states that the EPA will send a notice to NORCO requesting replenishment of the Special Account #2 to \$100,000, whenever the Special Account #2 is drawn down to a balance of approximately \$50,000. Paragraph 85 also states that NORCO shall, within twenty (20) days of receipt of a notice and Response Cost accounting summary (i.e., the SCORPIOS report or its equivalent) remit to Special Account #2 (by EFT, certified check, or cashier's check) the amount the EPA identifies as necessary to replenish Special Account #2 to a balance of \$100,000.

Paragraph 85 further states that if the Special Account #2 is depleted to an amount of \$10,000.00 or less, NORCO shall pay, within ten days of EPA's notice, \$25,000 to the Special Account #2. Therefore, in accordance with this paragraph, Paragraph 85 of the RI/FS Order, the EPA is requesting that NORCO replenish Special Account #2 with \$25,000 within ten (10) days of receipt of this notice and \$183,205.84, the remaining balance within twenty (20) days of receipt of this notice. The combined total replenishment amount sought is **\$208,205.84**. This amount represents the difference between \$739,965.81, the EPA's response costs through December 16, 2011, less total payments of \$534,946.51 submitted by NORCO thus far, and accrued interest of \$3,186.54 on the unpaid amount of \$112,909.39 requested December 14, 2009, in the Sixth Request for Replenishment. The EPA requires the \$208,205.84 replenishment amount so that the EPA can effectively implement its statutory and regulatory responsibilities for performance of the remaining work required under the RI/FS Order.


The EPA is aware that the financial ability of NORCO to replenish Special Account #2 for the final amount sought by EPA may be substantially limited. If you believe, and can provide documentation, that NORCO falls within that category, please complete the enclosed request for financial information: "Instructions for Applying for Ability to Pay Financial Review and Financial Statement for Businesses" (Enclosure B). Please send your response to:

Mr. Robert Werner
Enforcement and Assessment Section (6SF-TE)
United States Environmental Protection Agency
1445 Ross Avenue, Dallas, TX 75202-2733
Telephone: 214-665-6724
FAX: 214-665-6660

If the EPA concludes NORCO has a legitimate inability to pay the full replenishment amount sought by the EPA, the EPA may offer a schedule for payment over time or a reduction in the total amount demanded from NORCO.

If you have any questions or comments concerning this final request for replenishment of Special Account #2 for the RI/FS for the Site, please contact Robert Werner, Enforcement Officer, at (214) 665-6724.

Sincerely yours,



Lydia Johnson,
Chief
Enforcement Assessment Section

Enclosures

cc: Mr. Stephen Halasz, Project Coordinator
TRC Companies, Inc. (w/enclosures)